MONTANA LEGISLATIVE HISTORY

Chapter N/A 1999

Bill H _____ S 413 Original bill & history ✓ C

H. Committee on _____			S. Committee on Natural Res.		
Hearing Date(s)	_____	___C	Hearing Date(s)	2-15	✓C
	_____	___C		3-12	✓C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	_____	___C			

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

Returned to Senate
3/30 Sent to Enrolling
3/30 Returned from Enrolling
3/31 Signed by President
4/01 Signed by Speaker
4/06 Transmitted to Governor
4/08 Signed by Governor
4/10 Chapter Number Assigned
Chapter Number 279
Effective Date: 7/01/1999 - All Sections

SB 413 Introduced by Grimes, et al. *LC1164 Drafter: Everts*

Revise Various Aspects of the Montana Environmental Policy Act;...

2/08 Introduced and 1st Reading

2/08 Referred to Natural Resources
2/08 Fiscal Note Requested
2/12 Fiscal Note Received
2/12 Fiscal Note Signed
2/13 Fiscal Note Printed
2/15 Hearing
3/15 Tabled in Committee
3/31 Missed Deadline for Revenue Bill Transmittal

SB 414 Introduced by Stang *LC1095 Drafter: B. Campbell*

Establish Annual Assessment Amounts for the Montana Life and Health Insurance Guaranty Association;...

2/09	Introduced and 1st Reading		
2/09	Referred to Business and Industry		
2/10	Fiscal Note Requested		
2/11	Hearing		
2/15	Fiscal Note Received		
2/15	Fiscal Note Signed		
2/16	Fiscal Note Printed		
2/16	Committee Executive Action--Bill Passed as Amended	6	0
2/16	Committee Report--Bill Passed as Amended		
2/19	2nd Reading Passed	48	0
2/20	3rd Reading Passed	48	0

Transmitted to House
2/22 Referred to Business and Labor
3/12 Hearing
3/12 Tabled in Committee
Died in Standing Committee

SB 415 Introduced by Jabs *LC1339 Drafter: Heffelfinger*

Provide a Resident Bidding Preference for County Contracts;...

12/21 Fiscal Note Needed
2/09 Introduced and 1st Reading
2/09 Referred to Local Government
2/09 Fiscal Note Requested
2/11 Hearing

BILL NO. 413

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING VARIOUS ASPECTS OF THE MONTANA ENVIRONMENTAL POLICY ACT; PROVIDING DEFINITIONS; CLARIFYING THE REQUIREMENT THAT STATE AGENCIES IDENTIFY AND DEVELOP METHODS AND PROCEDURES THAT ENSURE THAT PRESENTLY QUANTIFIED ENVIRONMENTAL AMENITIES AND VALUES MAY BE GIVEN APPROPRIATE CONSIDERATION IN DECISIONMAKING; REQUIRING THE DIRECTOR OF A STATE AGENCY COMMENTING ON A PROPOSED ACTION TO DETERMINE THE SIGNIFICANCE OF THE PROPOSED ACTION; CLARIFYING THE TREATMENT OF A TRANSFER OF OWNERSHIP; LIMITING A COURT'S SCOPE OF REVIEW FOR AN ACTION OR CHALLENGE THAT AN ENVIRONMENTAL STATEMENT OR REVIEW IS NOT REQUIRED OR THAT THE STATEMENT OR REVIEW IS INADEQUATE; REQUIRING AN ENVIRONMENTAL IMPACT STATEMENT CONTRACTOR TO POST A PERFORMANCE BOND; AMENDING SECTION 75-1-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in 75-1-201 and this section, unless the context requires otherwise, the following definitions apply:

(1) "Cumulative impact" means the collective impact of the proposed action on the human environment when considered in conjunction with other past and present actions related to the proposed action by location or generic type. Related future actions may be considered only when those actions are under concurrent consideration by any state agency in a separate environmental assessment or in a detailed statement.

(2) "Detailed statement" means an environmental impact statement on agency programs and other major actions that could significantly affect the quality of the human environment, including the economic and cultural viability of local communities.

(3) "Proposal for project" means a proposed action that has localized impact, that is site-specific, or that does not significantly affect the quality of the human environment. A proposal for project does

not require the preparation of a detailed statement.

(4) "Significantly affect" means that the degree of impact on the quality of the human environment, including the economic and cultural viability of local communities, will be of serious material consequence in its severity, duration, or geographic extent.

Section 2. Section 75-1-201, MCA, is amended to read:

"**75-1-201. General directions -- environmental impact statements.** (1) The legislature authorizes and directs that, to the fullest extent possible:

(a) the policies, regulations, and laws of the state must be interpreted and administered in accordance with the policies set forth in parts 1 through 3;

(b) all agencies of the state, except the legislature and except as provided in subsection (2), shall:

(i) use a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking that may have an impact on the human environment;

(ii) identify and develop methods and procedures that will ensure that presently ~~unquantified~~ quantified environmental amenities and values may be given appropriate consideration in decisionmaking, along with economic and technical considerations;

(iii) identify and develop methods and procedures that will ensure that state government actions that may impact the human environment are evaluated for regulatory restrictions on private property, as provided in subsection (1)(b)(iv)(D);

(iv) include in each recommendation or report on proposals for projects, programs, and other major actions of state government that significantly ~~affecting~~ affect the quality of the human environment a detailed statement on:

(A) the environmental impact of the proposed action, including cumulative impact;

(B) any adverse environmental effects that cannot be avoided if the proposal is implemented;

(C) alternatives to the proposed action;

(D) any regulatory impacts on private property rights, including whether alternatives that reduce, minimize, or eliminate the regulation of private property rights have been analyzed. The analysis in this subsection (1)(b)(iv)(D) need not be prepared if the proposed action does not involve the regulation of private property.

(E) the relationship between local short-term uses of the human environment and the maintenance and enhancement of long-term productivity; and

(F) any irreversible and irretrievable commitments of resources that would be involved in the proposed action if it is implemented;

(v) study, develop, and describe appropriate alternatives to recommend courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources;

(vi) recognize the national and long-range character of environmental problems and, when consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize national cooperation in anticipating and preventing a decline in the quality of the world environment;

(vii) make available to counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(viii) initiate and use ecological information in the planning and development of resource-oriented projects; and

(ix) assist the environmental quality council established by 5-16-101; ~~and~~

(c) prior to making any detailed statement as provided in subsection (1)(b)(iv), the responsible state official shall consult with and obtain the comments of any state agency that has jurisdiction by law or special expertise with respect to any environmental impact involved. The director of a state agency commenting under this section shall make any determination of significance. The responsible state official shall also consult with and obtain comments from any state agency with respect to any regulation of private property involved. Copies of the statement and the comments and views of the appropriate state, federal, and local agencies that are authorized to develop and enforce environmental standards must be made available to the governor, the environmental quality council, and the public and must accompany the proposal through the existing agency review processes.

(d) a transfer of an ownership interest in a lease, permit, license, certificate, or other entitlement for use or permission to act by an agency, either singly or in combination with other state agencies, does not trigger review under subsection (1)(b)(iv) if there is not a material change in terms or conditions of the entitlement or unless otherwise provided by law.

(2) If a programmatic detailed statement pursuant to (1)(b)(iv) has been prepared for the area in which a site-specific project is proposed, a project-specific environmental assessment tiered to the

programmatic detailed statement is a sufficiently detailed statement to meet the requirements of parts 1 through 3 of this chapter.

~~(2)~~(3) The department of public service regulation, in the exercise of its regulatory authority over rates and charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1 through 3.

~~(3)~~(4) (a) In any action challenging or seeking review of an agency's ~~determination~~ decision that a statement pursuant to subsection (1)(b)(iv) is not required~~,~~ or that the statement is inadequate, the burden of proof is on the person challenging the decision.

(b) (i) In a challenge to the adequacy of a statement, a court may not consider any issue or evidence that was not first presented to the agency for the agency's consideration prior to the agency's decision.

(ii) If new, material, and significant evidence that had not been previously presented to the agency for its consideration is presented to a district court, the district court shall remand the new evidence to the agency for its consideration and an opportunity to modify its factual findings and administrative decision before the district court considers the evidence within the administrative record under review.

(iii) Immaterial or insignificant evidence may not be remanded to the agency or considered by the district court.

(iv) A district court may not hold an evidentiary hearing or make any original findings of fact. The district court is limited to reviewing an agency's findings and decision to determine whether the findings and decision are supported by substantial and credible evidence within the administrative record under review.

(c) A court may not set aside the agency's decision unless it finds that there is clear and convincing evidence that the decision was arbitrary or capricious or not in compliance with law."

NEW SECTION. **Section 3. Performance bonding for environmental impact statement contractors.** Before conducting work on an environmental impact statement pursuant to 75-1-201, a contractor shall provide a performance bond that is satisfactory to the state agency and that is in an amount determined by the state agency and executed by a surety company authorized to do business in this state or is otherwise secured in a manner satisfactory to the state agency. The performance bond must be delivered to the state agency. The requirements for the bond must be at least as stringent as those stated in

18-4-312(3).

NEW SECTION. **Section 4. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 75, chapter 1, part 1, and the provisions of Title 75, chapter 1, part 1, apply to [section 1].

(2) [Section 3] is intended to be codified as an integral part of Title 75, chapter 1, part 2, and the provisions of Title 75, chapter 1, part 2, apply to [section 3].

NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 6. Retroactive applicability.** [Section 2 (4)] applies retroactively, within the meaning of 1-2-109, to all matters pending before an agency on [the effective date of this act].

NEW SECTION. **Section 7. Applicability.** Except as provided in [section 6], [this act] applies to agency actions initiated pursuant to Title 75, chapter 1, part 2, after [the effective date of this act].

- END -

FISCAL NOTE

Bill #: SB0413 **Title: Revise MEPA**

Primary Sponsor: Duane Grimes **Status: As introduced**

Sponsor signature 2/12/99 Date

Dave Lewis, Budget Director 2-11-99 Date

Fiscal Summary

	FY2000 Difference	FY2001 Difference
Expenditures:	$0	$0
Revenue:	$0	$0
Net Impact on General Fund Balance:	$0	$0

Yes	No		Yes	No	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. Additional definitions do not significantly affect agency costs. However, these definitions applied to the existing terminology in 75-1-201, MCA, preclude the preparation of an environmental impact statement on proposals for projects, regardless of the scope of the project. This would significantly reduce applicants' expenses for third-party contractor evaluations of proposals having significant environmental impact.
2. Other modifications to the bill provide general direction. 75-1-201(1)(b)(ii), MCA may slightly but not measurably reduce project review costs. 75-1-201(1)(b)(iv), MCA is an editing change that does not affect review costs. 75-1-201(1)(b)(iv)(A), MCA requires an analysis of the cumulative impacts. This is already required in the implementing rules for MEPA and thus project review costs should not be affected.

SB413

3. The requirement for cooperating agencies to make a determination of significance mirrors the existing EA process and thus no additional workload is expected due to 75-1-201(1)(c), MCA.
4. Transfers of ownership that do not involve any change in type or characteristics of the permitted action typically meet the MEPA rule criteria for ministerial actions. Thus no costs are incurred and no costs would result from this codification.
5. Tiering required in 75-1-201(2), MCA, is the current practice by the agencies, so no change in agency costs would occur.
6. Limitations on litigation outlined in 75-1-201(4)(a), MCA, are generally implemented based on past case law. However, there may be a slight, but likely not quantifiable decrease in agency litigation costs.
7. New Section 3 would slightly increase state bond management workload. However, overall very few contractors are used to complete the limited number of highly visible EIS reviews required under MEPA. Thus no measurable workload increase is anticipated. This workload would be masked by the existing contract management workload for these projects.

FISCAL IMPACT

The impact of this bill to DEQ would be minimal and would be absorbed.

TECHNICAL NOTES:

The term "environmental assessment" is not defined, although it is used in Section 2 of this bill that amends 75-1-201, MCA, by adding subsection (2), and it is used in the ARM.

SB 411 SPONSOR: Crismore, William SHORT TITLE: Annual report on trust land return
REFERRED ON: 02/08/1999 HEARD ON: 02/17/1999
EXECUTIVE ACTION: 02/22/1999 Bill Passed as Amended -- VOTE: 11 - 0
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned

SB 412 SPONSOR: Stang, Spook SHORT TITLE: Revise the requirements for control and management of timber slash
REFERRED ON: 02/08/1999 HEARD ON: 02/15/1999
EXECUTIVE ACTION: 02/16/1999 Bill Passed -- VOTE: 9 - 0
FINAL DISPOSITION 04/10/1999 Chapter Number Assigned

SB 413 SPONSOR: Grimes, Duane SHORT TITLE: Revise MEPA
REFERRED ON: 02/08/1999 HEARD ON: 02/15/1999
TABLED ON: 03/15/1999
FINAL DISPOSITION 03/31/1999 (S) Missed Deadline for Revenue Bill Transmittal

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SB 462 SPONSOR: Grosfield, Lorents SHORT TITLE: Generally authorize environmental control easements
REFERRED ON: 02/12/1999 HEARD ON: 02/15/1999
EXECUTIVE ACTION: 02/22/1999 Bill Passed as Amended -- VOTE: 10 - 1
FINAL DISPOSITION 04/29/1999 Chapter Number Assigned

SB 465 SPONSOR: Jergeson, Greg SHORT TITLE: Limit underground tank owner liability under certain circumstances
REFERRED ON: 02/12/1999 HEARD ON: 02/17/1999
TABLED ON: 02/20/1999
FINAL DISPOSITION 03/01/1999 (S) Missed Deadline for General Bill Transmittal

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SB 468 SPONSOR: Cocchiarella, Vicki SHORT TITLE: Temporary closure of Clark Fork Basin to consumptive use permits/reservations
REFERRED ON: 02/12/1999 HEARD ON: 02/17/1999
EXECUTIVE ACTION: 02/18/1999 Bill Passed as Amended -- VOTE: 11 - 0
FINAL DISPOSITION 04/10/1999 Chapter Number Assigned

SB 492 SPONSOR: Grosfield, Lorents SHORT TITLE: Mining reclamation through RIT
REFERRED ON: 02/15/1999 HEARD ON: 02/19/1999
EXECUTIVE ACTION: 02/22/1999 Bill Passed -- VOTE: 11 - 0
FINAL DISPOSITION 05/04/1999 Chapter Number Assigned

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN WILLIAM CRISMORE**, on February 15, 1999 at 3:20 P.M., in Room 325 Capitol.

ROLL CALL

Members Present:

Sen. William Crismore, Chairman (R)
Sen. Dale Mahlum, Vice Chairman (R)
Sen. Vicki Cocchiarella (D)
Sen. Mack Cole (R)
Sen. Lorents Grosfield (R)
Sen. Tom Keating (R)
Sen. Bea McCarthy (D)
Sen. Ken Miller (R)
Sen. Glenn Roush (D)
Sen. Mike Taylor (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Larry Mitchell, Legislative Branch
Jyl Scheel, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 412, 2/15/1999; SB 413, 2/15/1999; SB 462, 2/15/1999
Executive Action: SB 412

HEARING ON SB 413

Sponsor: **SENATOR DUANE GRIMES, SD 20, CLANCEY**

Proponents:

Rebecca Watson, Attorney for Gough, Shanahan, Johnson & Waterman, providing testimony for Western Environmental Trade Assoc.
John Bloomquist, Montana Stockgrowers Association
Al Kington, Helena
Bill Snoddy, McDonald Gold Project
Patrick Heffernan, Montana Logging Association
Chris Gallus, Montana Chamber of Commerce
Jill Andrews, Montana Mining Association
Frank Crowley, ASARCO
Jim Mockler, Executive Director, Montana Coal Council

Opponents:

Anne Hedges, Montana Environmental Information Center
Harley Harris, Attorney General's Office
Mike Cooney, Secretary of State
Janet Ellis, Montana Audubon
Lee Arbuckle, Montana League of Women's Voters
Rusty Harper, representing State Auditor Mark O'Keefe and Member of State Land Board and also speaking for Nancy Keenan, OPI
Jerry Wells, Montana Council of Trout Unlimited
Van Jamison, Montana Wildlife Federation
Don Judge, AFLCIO
Aaron Browning, Northern Plains Resource Council
Stan Frasier, Helena
Denise Roth Barber

Opening Statement by Sponsor:

SENATOR DUANE GRIMES, SD 20, CLANCEY, stated **SB 413** is an important piece of legislation he is sponsoring on behalf of many industries that have found the **Montana Environmental Policy Act (MEPA)** to be overly cumbersome, overly expensive, overly time consuming, unwieldy, unworkable and unfair. The industries who provide most of the high paying jobs in Montana say **MEPA** is one of the factors chasing industry away from Montana and into the welcoming arms of other states. Several provisions of the bill are also contained in **HB 142** which was introduced by **REP. SHIELL ANDERSON.**

The purpose of the bill is to clarify when it is necessary to conduct an Environmental Impact Statement as opposed to the more streamlined Environmental Assessment. It is also to define critical terms such as cumulative impact, which has been left largely to the courts. The current open-ended nature of **MEPA** creates an endless cycle of environmental analysis that is never

quite complete, never quite adequate, never quite scientifically valid, never quite inclusive and never quite defensible in court.

As our mines, sawmills, oil rigs and other high paying employers have left the state, our standard of living left as well. This is all about jobs and economic growth in Montana. He feels this is one bill that can have the most profound, immediate impact on that of any that may be voted on this session.

Proponents' Testimony:

Rebecca Watson, Attorney for Gough, Shanahan, Johnson & Waterman, providing testimony today for Western Environmental Trade Association spoke in support of **SB 413** as per **EXHIBIT(1)**.

John Bloomquist, Montana Stockgrowers Association, spoke in support of **SB 413** stating this was not an effort to take public participation away from the **MEPA** process. **MEPA** is important in terms of scoping and identifying the environmental issues a project may have. One must recognize the law has become a literal bastion for litigation, injunctions, stopping projects and programs. When **MEPA** is read literally, it is very difficult to imagine a more vague and nebulous law in terms of statutory language. He reviewed some of the provisions between pages 3 and 4 of the bill that are designed to establish what a **MEPA** case is really about for the courts. This bill is an effort to finally put some sideboards on a law that has been around, been litigated, that will be litigated in the future and an effort to balance environmental review with the economic benefits of many projects.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 24.7; Comments : Microphone was accidently shut off at the beginning of Mr. Bloomquist's testimony.}

Al Kington, Helena, spoke in support of the bill as per **EXHIBIT(2)**.

Bill Snoddy, McDonald Gold Project, quoted from the **MEPA** handbook, "**MEPA** is not a statute that controls or sets regulations for any specific land or resource use. It is not a device for preventing industrial or agricultural development. If implemented correctly and efficiently, **MEPA** should encourage and foster economic development that is environmentally and socially sound." McDonald Gold Project is a case in point of how **MEPA** does not work. He referred to **EXHIBIT(3)** stating their permit application of November, 1994, consisted of 43 volumes and 9000 pages of data. Sixteen months later the Department declared the

application complete. They were told to do the work in advance and spend the money now as it would shorten the time frame that is required to prepare an EIS. The cost of preparation of their permit application was over $500,000. When work stopped on their EIS preparation in August, 1998, they had $2.5 million int o preparation of an EIS beyond the $500,000. The state told them just before they quit they could expect the EIS to require another $2.5 to $4 million to complete, at that particular time. They were asked to pay a downpayment of $538,000 before work could continue. This is about $25,000 more than the original EIS was supposed to cost.

MEPA is a good law. It is a law that works to protect Montana's environment and Montana's people. It is out of control and being used as an obstructionist tool. That is why this legislation is so important and he encouraged a DO PASS.

Patrick Heffernan, Montana Logging Association, spoke in support of **SB 413** as per **EXHIBIT(4).**

Chris Gallus, Montana Chamber of Commerce, spoke in support of **SB 413. MEPA** was created so that as a community we could reach sound environmental decisions based on real issues. It is being used as an obstructionist tool. This bill will help avoid many of those problems.

Jill Andrews, Montana Mining Association, spoke in support of **SB 413.** The permitting process in Montana is out of control and no longer functions as it should to permit mining or protect the environment. Provisions in **MEPA** have been used to delay projects and file court actions. Delays are expensive. It takes many years to get a mine permitted. The ASARCO project near Noxon has been trying to permit a copper and silver mine for over 10½ years. It has been delayed by one environmental organization after another. After 10½ years of delaying this project in Montana, several of these same environmental groups have asked the Governor of Idaho to intervene. This bill would go a long way in eliminating judicial and other delaying tactics and she encouraged a DO PASS recommendation.

{Tape : 1; Side : A; Approx. Time Counter : 24.7 - 39.7; Comments : Microphone was accidently shut off during Ms. Andrews testimony so a portion is missing.}

Frank Crowley, ASARCO, stated he did not feel there was anyone who would suggest that in the last 25 years there has not been an enormous amount of change in the State of Montana. He pointed out, to think that a law written 25 years ago does not

occasionally need to be updated and refined is to ignore that changing reality.

Jim Mockler, Executive Director, Montana Coal Council, pointed out two things: 1) time to business is money. 2) most activities governed by an Environmental Impact Statement will require an environmental permit. The permit is designed to protect the environment. **MEPA** has been abused and he hopes this is a step forward to fix it.

{Tape : 1; Side : A; Approx. Time Counter : 39.7 - 42; Comments : None.}

<u>Opponents' Testimony</u>:

Anne Hedges, Montana Environmental Information Center, stated this bill does fundamentally change **MEPA.** It fundamentally changes the way environmental impacts of state actions are analyzed and does vary significantly from the current rules. If mining is the problem, she encouraged addressing that specifically. She pointed out problems they have with the definition section regarding cumulative impact, proposal for project, and significant impact. With all those issues under consideration, they strongly oppose this bill.

Harley Harris, Attorney General's Office, spoke on behalf of Attorney General Joe Mazurek in his capacity as a member of the State Board of Land Commissioners. They are also concerned about a process that seems to be happening, with respect to **MEPA** in both this bill and **HB 142,** where a few anecdotal problems, concerns or isolated cases are being taken and extrapolating from those isolated anecdotes, broad scale revisions to this law. If the goal is to streamline and clarify, which they would concur in, they would suggest a more thoughtful and focused process be engaged. Their major concern with the bill is on page 2, lines 15 & 16 in deletion of the word "unquantified" and replacing with "quantified". It seems that strikes at the very core of what **MEPA** has intended to do which is to be a forward looking statute to set state government toward a forward looking path. They encourage the committee to look at modifications to **MEPA** over a longer term and involve more parties than moving forth with this bill.

Mike Cooney, Secretary of State, spoke in opposition to the bill as per **EXHIBIT(5).**

Janet Ellis, Montana Audubon, spoke in opposition to the bill and based her testimony on handout **EXHIBIT(6).** Page 1 of the handout describes the **MEPA** lawsuits from 1989 to 1999. The maximum

lawsuits for all state agencies in any one year was four lawsuits. Page 2 shows documentation of the 15,000 decisions made over the last ten years and the agencies in which they have occurred. This data was obtained from Environmental Quality Council records. Page 3 is a memo given to House Natural Resource Committee regarding **HB 142** indicating the lawsuits DNRC had been involved with in the last ten years. It is curious where they indicate no new evidence was allowed to be given to the court, they won every lawsuit. If the Court allowed new evidence, they lost every lawsuit. Is **MEPA** about a process to look at environmental impacts or is this bill about trying to win lawsuits for the state?

Lee Arbuckle, Montana League of Women Voters, spoke in opposition to **SB 413** as per **EXHIBIT(7)**.

Rusty Harper, representing State Auditor Mark O'Keefe and Member of State Land Board, spoke in opposition to **SB 413**. It is **Mr. O'Keefe's** opinion, as member of the Land Board for six years, that there have not been significant problems with **MEPA** in lawsuits. If the law were to be improved, as the proponents have suggested, he would strongly encourage the Attorney General's amendments proposed for **HB 142** where much of that language is present in this bill as well.

Mr. Harper also spoke on behalf of **Nancy Keenan, Office of Public Instruction**, stating she was in opposition to the bill for similar reasons.

Jerry Wells, Montana Council of Trout Unlimited, spoke in opposition to **SB 413**. His comments were focused on changes to page 2, lines 15 & 16 of the bill regarding "presently quantified". Biological systems are dynamic and do not lend themselves easily to quantification.

Van Jamison, Montana Wildlife Federation, spoke in opposition to **SB 413**. In the introduction it was suggested industry is leaving Montana because of **MEPA**. He thought it was inferred in that comment that perhaps other states do not have similar kinds of legislation and you could go to another state and avoid this type of environmental analysis. The **National Environmental Policy Act (NEPA)** covers all 50 states and each state also has a state environmental policy act, some with more stringent rules than Montana's. He had concerns with limiting the courts' discretion with regard to evidence. He is not certain the bonding provision goes far enough. There are many other provisions in the bill they object to and they urge the committee DO NOT PASS this bill.

Don Judge, Montana State AFLCIO, spoke in opposition to **SB 413.** When they spoke in support of the mining industry at the cyanide hearings they submitted two resolutions from their convention. Resolution #1 stated their opposition to the I-137 ballot issue. Resolution #2 stated their support of the industries if they complied with current environmental laws. Their convention also unanimously adopted the position saying they should exceed current environmental laws. The labor movement does not support anything that would make the environmental protection laws and **MEPA** insignificant for the workers they represent. They do not feel this legislation is a step in the right direction.

{Tape : 1; Side : B; Approx. Time Counter : 0 - 38; Comments : None.}

Aaron Browning, Northern Plains Resource Council, spoke in opposition to the bill and submitted written testimony as per **EXHIBIT(8).**

Stan Frasier, Helena, stated it was said in the opening statement that we need to make it easier for businesses to do business. We have had that in the past and did not get good results. Montana has some of the largest Superfund sites in the country as a direct result of making it easy on business. Some of these things have very long term impacts and we need to be careful in how they are done. He does not think we need to make it harder for citizens to get involved in their government.

Denise Roth Barber, Montana Sierra Club, spoke in opposition to the bill and stated they share the concerns of those expressed already. She would like to encourage the committee to find out what current projects would be affected by the retroactive language in the bill on Section 2 (iv) on page 4, lines 6-23.

{Tape : 2; Side : A; Approx. Time Counter : 0 - 3; Comments : None.}

Questions from Committee Members and Responses:

SENATOR COCCHIARELLA asked if **SEN. GRIMES** was aware that **Environmental Quality Council (EQC)** has studied and on different occasions reviewed the rules for **MEPA** in 1976, 1980 and 1988. **SEN. GRIMES** stated he was aware of that. **SEN. COCCHIARELLA** asked if there was a reason why this bill was not brought to the **EQC**? **SEN. GRIMES** stated the legislation was not ready soon enough to bring it before the council. He also understands that council has it's political dynamics as well and this legislation was generated by a genuine concern for rural Montana.

SEN. COCCHIARELLA stated she disagreed when he said **EQC** has a political dynamic. She feels it is one of the best interim committee bipartisan processes that this legislature has. **SEN. GRIMES** stated he stood to be corrected as he had never been on **EQC.**

SEN. COCCHIARELLA said the bill on page 3, lines 18 and 19, really bothered her. Who really has authority and the decision making responsibility with that language? **SEN. GRIMES** said it will follow the normal chains of command and the normal decision making ladder that it should. There won't be individuals, who are not fully qualified, making decisions at a lower level, those will be passed up. He referred the question to **Ms. Watson.**

SENATOR COCCHIARELLA asked if they intended, in this language, to take away the responsibility from a director for the decision of significance when that director has the responsibility of that decision. **Ms. Watson** stated no. The purpose was to clearly set out it was the agency director that bears the ultimate responsibility. She agreed the language could perhaps be clarified so it is clear that it is the director of the agency that is permitting the action who is responsible for making the significance call, and not some other agency that comments in the process.

SENATOR WILSON referred to **Mr. Jamison's** remarks regarding Montana being burdensome to industry. He questioned the thinking on that and how we stacked up with other states in general? **Ms. Watson** stated that as Chairman of the Public Lands Committee of the American Bar Association she felt qualified to answer the question. Environmental permitting all around the country is often a topic of discussion. The combined effect of I-122, I-125, I-137, and the slow permit processing under **MEPA**, have branded Montana with a sign not open for business. **SEN. WILSON** stated he views I-122 as separate from what is being discussed here today. **Ms. Watson** said she could direct her remarks to **MEPA** but he had asked a general question to a general statement by **Mr. Jamison.** Focusing on **MEPA** and the permitting process, Montana's reputation for permit processing in the large mines is extremely slow. Some have been in the works for 5, 6 or 10 years and at great expense. 30 out of 50 states do have some type of **MEPA** law.

SENATOR McCARTHY questioned p.4 Section A-B of the bill. If this were enacted where would the burden of proof for the claim be in this section? **Ms. Watson** stated the burden of proof remains with the plaintiff, i.e. person charging there has been some error by the agency. **SEN. McCARTHY** asked if it restricted the ability of

the court to consider new issues or evidence than were in there before? **Ms. Watson** stated yes. There is an agency process with a commenting period and there are challenges that can be brought forward at that time. If the information is provided at that time, the agency then has time to respond and take corrective action. This language reflects how the law should be applied. Administrative actions are very limited in court review. You are not allowed to put on a new evidentiary case and are limited to agency record. Sometimes the court has been more than liberal in allowing in new evidence and the agency is blind sided at the time of the hearing with new evidence, having failed to be provided with this evidence earlier when they could have dealt with it in the EIS process. **SEN. McCARTHY** said it states they will no longer hold an evidentiary hearing on this. To the layperson she felt she needed more clarification. **Ms. Watson** said that, although it sounds harsh that an evidentiary hearing is not held, that is the way that all **MEPA** and **NEPA** cases are to be handled. The court looks at the Administrative Record to see if the requirements have been met under **MEPA.**

Closing by Sponsor:

SENATOR DUANE GRIMES, SD 20, CLANCEY, thanked the committee for a good hearing. He pointed out this was not isolated anecdotes. Every lawsuit has a tremendous impact on industries all across this state. He feels this would have only served the public well if you do not mind being 50th in so many economic factors. Economies are on the line everywhere because of the protracted environmental Impact Statement process and the mischief that occurs through the process. Amending **SB 413** will make the process more streamlined and user friendly.

{Tape : 2; Side : A; Approx. Time Counter : 3 - 19; Comments : None.}

HEARING ON SB 412

Sponsor: SENATOR BARRY "SPOOK" STANG, SD 36, ST. REGIS

Proponents:

Bud Clinch, Director, Department of Natural Resources and Conservation
Cary Hegreberg, Montana Wood Products Association
Patrick Heffernan, Montana Logging Association

Opponents: None.

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN WILLIAM CRISMORE**, on March 12, 1999 at 3:15 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. William Crismore, Chairman (R)
Sen. Vicki Cocchiarella (D)
Sen. Mack Cole (R)
Sen. Lorents Grosfield (R)
Sen. Tom Keating (R)
Sen. Bea McCarthy (D)
Sen. Ken Miller (R)
Sen. Glenn Roush (D)
Sen. Mike Taylor (R)
Sen. Bill Wilson (D)

Members Excused: Sen. Dale Mahlum, Vice Chairman (R)

Members Absent: None.

Staff Present: Larry Mitchell, Legislative Branch
Jyl Scheel, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 340, 3/12/1999; HB 485, 3/12/1999; HB 486, 3/12/1999
Executive Action: SB 413

EXECUTIVE ACTION ON SB 413

Motion: **SEN. KEATING** moved that **SB 413 DO PASS.**

Motion: **SEN. KEATING** moved that **SB 413 AMENDMENTS SB041303.ATE BE ADOPTED. EXHIBIT(1).**

Discussion:

SENATOR KEATING explained the amendments.

SENATOR TAYLOR asked for an overview of SB041303.ate. **Mr. Mitchell** stated the amendments take out the duplicate sections in **SB 413** which are duplicated in **HB 142.**

Vote: Motion that **SB 413 AMENDMENTS SB041303.ATE BE ADOPTED carried 9-1 with Wilson voting no.**

Motion: **SEN. KEATING** moved that **SB 413 AMENDMENTS SB041301.ATE - #1-#7 BE ADOPTED. EXHIBIT(2).**

Discussion:

SENATOR KEATING explained the amendments. Amendments #8, #9 and #10 are overlaps of the previous amendment and have already been deleted from the bill.

SENATOR COCCHIARELLA questioned amendment #5 for clarification. **SENATOR KEATING** stated the meaning of significantly affect is to determine the affect on a very broad area and that it does not apply to a site specific disturbance within this larger area. All it does is qualify the degree of impact on the quality of the human environment.

SENATOR COCCHIARELLA stated she understood significantly affect words in the bill but, to her, the amendment says that local impacts or anything site specific cannot be considered. **SEN. KEATING** said no, it does not mean you cannot consider it but you cannot call it significantly affecting. In and of itself the affect could have significance as to that specific site. It is just saying the term is very broad. **SEN. COCCHIARELLA** stated then you can only consider something having a significant affect if it is very broad but not site specific? There is a double negative in the sentence making it unclear. **SEN. KEATING** directed her to the body of the law to find how significantly affect is being used and apply it to the specific object of the sentence. **SEN. COCCHIARELLA** stated if she could not understand how the words worked in a definition she would not be able to fit them into the law. She asked **Mr. Mitchell** to explain them to her. **Mr. Mitchell** said the definition of significantly affect on the human environment triggers a lot of decision making through **MEPA.** To clarify what that means is the effort being put forth here. Significant is defined in the model rules. This definition tries to limit it from what it says in the model rules. In this context it is trying to say significantly affect

does not include those impacts which were basically in the definition of proposal for project in the previous definition which has now been stricken. That language has been taken out of proposal for project and put into the definition of significantly affect as to what it does not mean. The difficulty is in the last part of the sentence where significantly affect is defined using the term significantly affect and therefore becomes cumbersome. **SEN. COCCHIARELLA** stated she did not grasp the concept of the amendment. **SEN. KEATING** stated he was trying to say a localized impact area is not within the meaning of significantly affect. **SEN. COCCHIARELLA** stated if there was a huge impact on a local entity or site, we don't care, it is not part of significantly affect. **SEN. KEATING** said no, that is not what it is saying.

SENATOR WILSON stated it seems it only matters if it spreads out beyond the localized area.

SENATOR CRISMORE asked **SEN. GRIMES** to comment. **SEN. GRIMES** stated he did not write the language but understands the intent. The intent is if it is localized, if it is site specific, and does not affect the quality of human environment then an Environmental Impact Statement would not be triggered, an Environmental Assessment would be used. This is just further trying to clarify that language as to when significantly affect would trigger the **EIS**. That would be in cases where it is not localized, not site specific and does not affect the quality of the environment.

SENATOR COCCHIARELLA asked if the intention of the language is to say if it is site specific or localized you do not ever want an **EIS** under this criteria. **SEN. GRIMES** stated if the other definitions do not apply in some other way in this section. If it is just purely localized and site specific, it would be the **EA**.

SENATOR TAYLOR asked for an example. If he owned a logging company and had 100 acres of private ground but there was an accident and the logging mill burns up plus 50 acres of timber. It does not affect the surrounding area because it is his property. That is a local impact. If he had a coal mine in Lewistown where cyanide leached into the water and goes to the neighboring ranchers, they would have to suck the water out of the ground to bring it back up resulting in it drying out the ranchers water, that is site specific and affects the environment. Is that correct? **SEN. KEATING** said it would have to not affect the human environment and the mine example affects the human environment and therefore

would be a significant affect. **Mr. Mitchell** stated a detailed statement is required on projects that affect the quality of the environment. The detailed statement is typically defined as meaning an **EIS** as opposed to an environmental checklist or **EA**. According to **SEN. GRIMES** statement if this proposed action or project does in fact have only a limited localized impact that is site specific and does not significantly affect the quality of the human environment then there is no significant affect and there would not be an **EIS** but instead some other environmental review would be conducted.

SEN. GRIMES offered examples from his local constituents. A discussion was brought about over whether or not an **EIS** or **EA** would be triggered in the case of Golden Sunlight Mine, who basically needed to put a bird net over their settling ponds. It did not affect the environment, it was local and site specific. The overall intent of the bill is to make these things definable and to make sure they are not obstructionist. His constituents agreed, whether they liked the mine or not, that kind of **EIS** for that situation would have been ridiculous.

SENATOR WILSON questioned if currently that would have triggered an **EIS** as things are now? **SEN. GRIMES** stated they are trying to further define and put a fence around the issue. Right now they could allege that virtually anything could be used to say an **EIS** needs to occur.

SENATOR COCCHIARELLA stated she felt it important the committee not only hear what **SEN. GRIMES** says about **EIS/EA** because she does not believe **MEPA** does that. She feels it is important not to mislead everyone that it always happens that way. **SEN. GRIMES** stated he was just using one example and offered his apologies if he was in error.

SENATOR KEATING asked for comment on that definition. **John Bloomquist, Montana Stockgrowers Association**, stated the reason behind the definition is the threshold between an **EA** and **EIS** is a finding of significance. If there are potential significant affects by the action of quality human environment, an **EIS** is triggered, which is a more expansive review of the proposed action. Significance is not defined anywhere in **MEPA**. There are some regulations and considerations regarding significance determination which include issues like localized impact, site specific impacts and duration. He thinks the definition is trying to put some statutory boundaries on significant because that is the trigger, or threshold between an **EA** or a more expansive, time consuming and involved **EIS**.

SENATOR KEATING stated there are double negatives in many parts of our law and it has to be left to the experts in **DEQ** to sort things out and they usually do a good job doing that. In this case of amending **MEPA** in order to give a better definition of the line between an **EIS** and an **EA**, we are trying to define significant affect. The folks in the Department that do the reviews know whether a localized or site specific action is significant in the sense that it requires an **EIS** or an **EA** and, in fact, the Director of the responsible state agency shall make any determination of significance. The staff experts in **DEQ** that make a decision on whether it should be an **EIS** or an **EA** have some guidelines to go by and the Director has the authority for determination of significance. It would allow them to do their job with more clarity and efficiency with it in the statutes.

Substitute Motion: **SEN. COCCHIARELLA** made a substitute motion to **SEGREGATE AMENDMENT #5 FROM SB041301.ATE.**

Vote: Motion that **AMENDMENTS NO. 1,2,3,4,6,7 IN SB041301.ATE BE ADOPTED carried 10-0.**

Vote: Motion **AMENDMENT #5 BE SEGREGATED FROM SB041301.ATE failed 5-5** with **Senators Cocchiarella, McCarthy, Roush, Taylor and Wilson voting no.**

Motion: **SEN. KEATING** moved that **PAGE 2, LINE 15 BE AMENDED TO DELETE "QUANTIFIED" AND RESTORE "UNQUANTIFIED".**

Discussion

SENATOR GROSFIELD stated he did not like either word. If you say "unquantified environmental amenities" and later on talk about "along with economic and technical considerations", the implications are that unquantified does not apply to economic and technical considerations. He feels that is a defect in current law.

Substitute Motion: **SEN. GROSFIELD** made a substitute motion on **PAGE 2, LINE 15, STRIKE "PRESENTLY" AND ON LINE 16 STRIKE "QUANTIFIED".**

Discussion:

SENATOR TAYLOR questioned if that change made any difference and requested an explanation. **Mr. Mitchell** said he did not have a good explanation without further thought. The issue is in trying to identify and consider the values of existing environmental amenities to make sure they are given appropriate consideration

in terms of whatever impacts the project may have on those environmental entities. He is uncertain that "presently" is critical to the rest of the sentence. The words "quantified" and "unquantified" are significant in terms of what environmental entities you have and how they are quantified. By striking both words it does not matter what environmental amenities and values were given appropriate consideration in reviewing a particular project. He did not see that it made a lot of difference.

Vote: Motion **carried 9-1 with Wilson voting no.**

{Tape : 1; Side : A; Approx. Time Counter : 0 - 40; Comments : None.}

Discussion:

SENATOR CRISMORE questioned if this bill with the amendments makes it more palatable to their organization than it was without the amendments? **Anne Hedges, Montana Environmental Information Center**, stated the amendments do take care of the conflicting and similar language with **HB 142. SEN. KEATING'S** amendments were superficial and did not do anything to the substance of the bill. One significant problem was taken care of by deleting "quantified". By changing that word nothing has really been affected, it just means both quantified and unquantified have to be studied if they are an environmental amenity.

They still have some serious concerns with the bill. In the definition section the definitions for "cumulative impact" and "significantly affects" are being changed so they will have significant impact on **MEPA** decisions in the future. With those changes they still strongly oppose the bill.

Motion: **SEN. KEATING** moved that **SB 413 DO PASS AS AMENDED.**

Discussion:

SENATOR TAYLOR referred to **EXHIBIT(3)** and questioned why **MEIC** would be trying to stall this project? **Ms. Hedges** stated there are a lot of issues including a very old **EIS**, a community feeling that the **EIS** no longer makes sense because of how growth has occurred since that time in this community and where the real needs are for transportation in the community. The needs have changed over the past eight or nine years.

SEN. KEATING stated the article says the letter from **MEIC** criticizes a recent re-evaluation of the **EIS** completed by the Department for lack of public involvement in the process. The

Department evidently did a re-evaluation of the **EIS** and then they say the supplemental **EIS** will not be necessary because the changes in the proposed project, scope and work do not result in any significant environmental impact. Now we are back to "significant environmental impact". The Department is saying the impacts are not significant. **MEIC** is saying they are significant. This is where the confusion comes in. **MEPA** was not definite in its definition of "significant impacts" and now there is a delay on a project for what reason? The experts in the Department have reviewed the **EIS**, re-evaluated it and said it does not need to be changed because, in their eyes, there is no significant environmental impact and their lawyer says they have followed the law. The fight goes on because of a lack of definition in **MEPA**.

SENATOR McCARTHY stated she did not disagree with what **SEN. KEATING** is saying, she just does not agree with the approach he is taking here. For that reason, she has requested a bill draft that will ask the Environmental Quality Council to study the issue that is the subject of this bill. She feels that is a much more positive way to go about this. She grants **MEPA** needs to be studied and changed. It is a 1971 set of rules and regulations and many things have changed since that time. It needs updating. The bill has gone too far and for that reason she has made the other request.

SENATOR COCCHIARELLA stated this is a situation where if you wish for something you might get it. She feels she might be able to say "I told you so" someday and she hopes it is not to **SEN. GRIMES**. She feels he is creating a bigger nightmare for himself than he could ever imagine. This should not be in front of this committee, this should be an issue of **EQC**.

SENATOR WILSON asked for an explanation of the makeup of **EQC**. He understands it is bipartisan, even to the extent of having co-chairs. Is that correct? **SEN. COCCHIARELLA** stated that was correct. **SEN. WILSON** said it was his contention that in the case of **I-137**, we should not be doing these types of things in this partisan environment. This sort of overhauling of something that has worked quite well over the years does not belong here. **SEN. McCARTHY** is right, it should be studied and we should not be tearing it apart in this partisan atmosphere.

SENATOR GROSFIELD was amazed at the timing of this article. A motion to delete the retroactive applicability was made during deliberations on **HB 142**. He is glad he voted against it and the reason is in the third paragraph of the article because **HB 142** takes care of this issue. This issue talks about changed

circumstances after the **EIS** is issued. He believes the **MEPA** process is broken and is broken significantly. He feels there are abuses of the process and perhaps this is one of them. He has been troubled by this bill and has tried to work on it. He encouraged it being on the list to hold over to see if some workable definitions could be arrived at. He thinks the definitions are problematic, they leave out too much and he does not feel it is appropriate to say we are not going to consider permitting actions when we are doing cumulative impact analysis. In Section 3 - Performance Bonding. The problem we have now is we have an **EIS** and there is a bid of $X to do the **EIS**. You go six months and the agency says they need more information and if they don't receive the information they won't grant the permit and the process starts over. The company say OK we will give you more information and more money and this goes on and on for years in some cases. That is ridiculous. This is not going to help that because this says you have to have a performance bond before you come up with an **EIS**. On some of these complex projects you are going to be asked to bond for all kinds of things no one knows about. No one is going to bond these people. It means the agency gets stuck with doing the **EIS**. Are we giving money to the agency to do the **EIS**? Probably not so that will mean they will do a shoddy **EIS** and that will mean we are back in court again, lawsuit after lawsuit because the **EIS** is not a good one. He has tried to figure out definitions along with a number of people in the room and no one has been successful in the short time they have had to come up with them. He is not sure there is another way to do this other than an **EQC** study. He cannot support the bill.

SENATOR TAYLOR stated we are put into a position where we are trying to understand a bill with complications that we cannot get the same answers on from two different attorneys. As a citizen's legislature we need to make a decision, good, bad or indifferent, that is based on limited knowledge. Unfortunately when you have limited knowledge and you don't have the time here to research, you vote no. When he votes no he is not sure he is voting right or that he is solving the problem if he votes no or yes. He could listen to the lobbyists but he still has to make the decisions for his constituents and he has to defend his decision. He feels a study may be the way to go on this issue.

SENATOR CRISMORE stated the question he has to answer when he goes home is "Bill did you do anything that will finally get us a permit where we can have a mine? Did you do anything that would have kept us from being shut down by the environmentalists that we did not get to do when we ran the mine? Did you do anything to keep them from shutting down our timber sales by one appeal after another appeal that we thought we had everything covered

from the beginning?" The timber sale in the Swan has been shut down four times through **MEPA** now to where they have been asked to leave 90,000 feet of timber on the ground to rot. The state sold that sale for $1.7 million dollars. If the court said today to go ahead and finish it up they might realize $300,000. Something is wrong with a system that allows that to happen. It has to be fixed and today he hopes we could pass this bill out to provide a start. It could still be studied for two years and come back to it. Venture Star could be stopped under **MEPA**. They will not stay in Montana as long as ASARCO and Miranda to try to get a permit. They are not going to stay here while we stop them as we try to figure out how much accumulative affect there is already with the noise from the Air Force and how much more this will do. We have to change the process otherwise the state is at a standstill.

SENATOR KEATING said the idea of studying **MEPA** is late. **MEPA** has been studied every day of every year since it was instituted. It has been studied by experts out there trying to function under it. It has been studied by experts throughout the state in every industry we have. It has deterred and precluded investment in the state, it has precluded new wealth from being created in this state because we study it so much and do nothing about it. He has a great deal of respect for **SEN. GROSFIELD** in this area and his heart sunk a little when he spoke. He hoped we would have something that would give both sides an opportunity for common sense presentation of their concerns and that knowledgeable people then could make a decision, like mediation or arbitration, and the environment would be protected and new wealth could be created so things could get done. That is where the study of **MEPA** is, it is out there in everyday life by everyone trying to function under this law. He appreciated the Chairman's closing statements.

Motion/Vote: **SEN. COCCHIARELLA** moved that **SB 413 BE TABLED. Motion carried 8-3** with **Senators Crismore, Cole and Keating voting no by Roll Call Vote.**

{Tape : 1; Side : B; Approx. Time Counter : 0 - 30; Comments : None.}

HEARING ON HB 340

Sponsor: **REPRESENTATIVE SHIELL ANDERSON, HD 25, LIVINGSTON**